

claim the subject matter which applicant regards as his invention. Applicant has now amended Claims 1 through 3, 5 through 7, and 9 to comply with the Examiner's claim language suggestions. Accordingly, the foregoing grounds for rejection are believed to have been satisfied.

Claims 1 through 8 were further rejected under 35 USC §103 as being unpatentable over Glass (U.S. Patent No. 3,455,291) in view of Grade (U.S. Patent No. 5,836,298) and further in view of Fort (U.S. Patent no. 3,111,123). In this respect, the Examiner has stated:

"Glass discloses in Figures 1-7 a freestanding firepit comprising a base support member (12a-d), a generally funnel shaped base element (56) containing a bottom grate (14) adapted to hold fuel and having apertures (16) for ash to fall through (see col. 3, lines 5-7), a middle grate (42 and 60) having a cooking grill surface and mounted to pivot about an access of rotation (See Figs. 2 and 7), an ash receptacle containing a remove drawer (see col. 2, lines 30-42)....

Grady teaches a portable fireplace of similar endeavor having a meshed screen (32) surrounding a peripheral portion of a base element wherein the screen

has an access opening and an access door (330)."

It is the Examiner's initial position that it would be obvious to a person of ordinary skill in the art at the time the invention was made to modify the firepit of Glass to incorporate the meshed screen and door to Grady for the desirable purpose of preventing the escape of burning embers from the firepit (see Grady, col. 7, lines 33-37) and to allow direct access to the interior of the enclosure formed by the surrounding meshed screen through the side to reduce the likelihood of the occurrence of burns to a user of the firepit (see Grady, col. 7, lines 57-64)."

The Examiner also rejected Claim 9 under 35 U.S.C. 103(a) as being unpatentable over Glass in view of Grady as applied to Claim 1 above, and further in view of Fort (U.S. Patent No. 3,111,123) as follows:

"Glass in view of Grady teaches all the limitations of Claim 9 except possibly that the pivot assembly is composed of a post having a collar for receiving a complimentary pin."

Before responding in detail to the rejection under 35 USC §103, it will be helpful to review the principal aspects of the present invention.

The present invention provides a free standing firepit having a detachable pivoted grill.

The inventive firepit, in one embodied form, comprises a sturdy base support member that holds the firepit in an upright position. The firepit base element is provided with ash receptacle containing a removable drawer for cleaning ashes therefrom. The generally funnel shape of the base element is open at both ends. A bottom grate, is adapted to hold fuel useful in providing warmth and/or cooking such as charcoal, wood and the like. Apertures provided in the bottom grate permit the spent ashes to fall therethrough and into the funnel shaped base element to the ash drawer. The base support member is fully enclosed about its periphery by a meshed screen to prevent sparks or other combustible debris from inadvertently exiting the firepit. An access opening is provided on the screen for user access to the firepit enclosure.

A middle grate is removably mounted to pivot about an axis of rotation adjacent and contiguous to the access opening of the screen.

The unique free standing firepits, may be contained within a Chimenea to allow consumers to enjoy an outdoor source of warmth and cooking in an attractive, compact design.

While recognizing the virtues of dual purpose design, conventional fireplaces have been generally permanently affixed to housing or other structures and can be awkward to use. This is especially true of such fireplaces when the grill or food receptacle is not in use.

Accordingly, those skilled in the art have recognized a significant need for convenient, attractive chimeneas providing outside warmth and optionally, providing a removable grill for cooking purposes. The present invention fulfills these needs.

The foregoing references cited in the Office Action do not disclose nor suggest a free standing firepit comprising:

- 1) a meshed screen disposed on the peripheral portion of said base element to fully enclose said base element to form an interior space for combustion of fuel; said meshed screen having an access opening to provide user access to said interior space;
- 2) a moveable door for covering said access opening; and
- 3) a middle grate having a cooking grill surface removably mounted in said firepit enclosure; said grate being mounting adjacent and contiguous to said access opening of said meshed screen to pivot about an axis of rotation adjacent and contiguous to said access opening.

In contrast, Glass ('291) discloses disengaging holders 26 and 40 from respective sleeves 28 and 46. There is no meshed screen enclosure disposed on the peripheral portion of the base element to fully enclose the base element and to form an interior space.

Grady in U.S. Patent No. 5,836,297, while disclosing a fireplace with firescreen assembly, teaches that the grill screen panel having usable grill area 163 can be removed from the fireplace by sliding not by rotation. Accordingly, there is no nexus to combine the disclosures of Glass with Grady. The Fort reference and those cited but not applied by the Examiner go no further in disclosing or suggesting applicant's invention as now defined in the Claims.

Reconsideration of the amended application is respectfully requested.

For the foregoing reasons, it is respectfully requested that the application be reconsidered and an early and favorable next office action is earnestly solicited.

///
///
///
///

Should you require any additional information, please
do not hesitate to give me a call.

Respectfully submitted,

Frank Frisenda, Jr.
Registration No. 27,884

3993 Howard Hughes Parkway
Suite 470
Las Vegas, Nevada 89109
Telephone: (702/792-3910)



RECEIVED

CLAIMS

I claim:

AUG 06 2003

TECHNOLOGY CENTER R3700

1. (AMENDED) A free standing firepit comprising, in combination:

- a) a base support member to maintain the firepit in an upright position;
- b) a generally funnel shaped base element containing a bottom grate adapted to hold fuel;
- c) a meshed screen disposed on the peripheral portion of said base element to fully enclose said base element to form an interior space for combustion of fuel; said meshed screen having an access opening to provide user access to said interior space;
- d) a moveable door for covering said access opening; and
- e) a middle grate having a cooking grill surface removably mounted in said firepit enclosure; said grate being mounting adjacent and contiguous to said access opening of said meshed screen to pivot about an axis of rotation adjacent and contiguous to said access opening.

2. (AMENDED) The firepit of Claim 1 and further comprising an ash receptacle containing a removable drawer for cleaning ashes therefrom.

3. (AMENDED) The firepit of Claim 1 and further

A/
comprising a base element open at both ends.

5. (AMENDED) The firepit of Claim 1 and further comprising apertures in the bottom grate to permit the spent ashes to fall therethrough.

A/2
6. (AMENDED) The firepit of Claim 1 and further comprising a base support member fully enclosed about its periphery with a screen.

7. (AMENDED) The firepit of Claim 1 and further comprising an access door to provide access to said interior enclosure.

A/3
9. (AMENDED) The firepit of Claim 1 and further comprising a post comprised of a collar for receiving a complimentary pin.



Redline
Version

CLAIMS

I claim:

RECEIVED

1. A free standing firepit comprising, in combination:

AUG 06 2003

TECHNOLOGY CENTER R3700

a) a base support member to maintain the firepit in an upright position;

b) a generally funnel shaped base element containing a bottom grate adapted to hold fuel;

c) a meshed screen disposed on the peripheral portion of said base element to fully enclose said base element to form ^{an} interior space for combustion of fuel; said mesh ^{ed} screen having an access opening to provide user access to said ~~firepit enclosure~~;

d) a moveable door for covering said access opening; and

e) a middle grate having a cooking grill surface removably mounted in said firepit enclosure; said grate being mounting adjacent and contiguous to said access opening of said ^{ed} mesh screen to pivot about an ^{axis} of rotation adjacent and contiguous to said access opening.

2. The firepit of Claim 1 and further comprising an ash receptacle containing a removable drawer for cleaning ashes therefrom.

P.O.



3. The firepit of Claim 1 and further comprising a base element open at both ends;

4. The firepit of Claim 1 and further comprising a bottom grate, adapted to hold fuel;

5. The firepit of Claim 1 and further comprising apertures in the bottom grate to permit the spent ashes to fall therethrough;

6. The firepit of Claim 1 and further comprising a base support member fully enclosed about its periphery with a screen;

7. The firepit of Claim 1 and further comprising an access door ~~on the screen~~ to provide access to ^{said interior} the firepit enclosure;

8. The firepit of Claim 1 and further comprising a middle grate having a cooking grill surface;

9. The firepit of Claim 1 and further comprising a post comprised of a collar for receiving a complimentary pin;

RECEIVED

AUG 06 2003

TECHNOLOGY CENTER R3700